

**Response Under 37 C.F.R. 1.116 (After Final)
Expedited Procedure Examining Group 3627
ATTORNEY DOCKET NO. HKPC/196/US**

**REQUEST TO WITHDRAW FINALITY AND
TO CONSIDER THE ENCLOSED RESPONSE**

This Request to Withdraw Finality is necessitated by the following:

1. In the January 2, 2004 Office Action, made final, the Examiner rejected claims 1-23 as being anticipated by Garcia (United States Patent No. 6,272,474). The Examiner, however, did not show anticipation of numerous pending claims. As an illustrative sampling of un-examined claims, the Applicants respectfully draw the Examiner's attention to **claim 8**, graphically representing on a computer display device a price interval with the highest trading activities by a dot ; **claim 9**, said second geometric figure is a vertical line with a predefined width and color connecting the high and low of said price range; **claim 10**, graphically representing on a computer display device said continuous price range with substantially low trading activities on said bar by a third geometric figure; **claim 11**, said third geometric figure is a vertical line with predetermined width and color connecting the high and low price of said price range; **claim 12**, graphically representing on a computer display device at least one continuous price range with substantially high trading activities by a fourth geometric figure and overlaying said fourth geometric figure onto said bar, said fourth geometric figure being a rectangle with a predetermined width and length, said rectangle has vertices with Y-coordinates; **claim 13**, said rectangle is hollow if a close price is higher than an open price indicated by said bar, and is filled if the close price is lower than the open price of said bar; **claim 14**, said price-time chart is a Japanese Candlestick Chart and said rectangle has an identical width with a body of said bar, said rectangle contains a pattern to distinguish it from

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the body of said bar; claim 15, said pattern is a slanted stripe pattern; claim 20, graphically representing on a computer display device each intra-market element of said set of intra-market elements by a fifth geometric figure and overlaying said fifth geometric figure onto the bar

2. The "Final Rejection" does not comport with the requirements for a final action.

The Examiner's attention is respectfully directed to the following sections/passages from 37 C.F.R., and the MPEP laying out the standards applicable to a final rejection:

37 C.F.R. §1.104 Nature of Examination

(a) Examiner's action. (1) On taking up an application for examination or a patent in a reexamination proceeding, the Examiner shall make a thorough study thereof and shall make a thorough investigation of the available prior art relating to the subject matter of the claimed invention. **The examination shall be complete with respect ...to the patentability of the invention as claimed** (emphasis added), as well as with respect to matters of form, unless otherwise indicated.

MPEP §706.07 Final Rejection

Before final rejection is in order a clear issue should be developed between the Examiner and Applicant. To bring the prosecution to as speedy conclusion as possible and at the same time to deal justly by both the Applicant and the public, the invention as disclosed and claimed should be thoroughly searched in the first Office Action and the references fully applied...

The Applicant who is seeking to define his or her invention in claims that will give him or her the patent protection to which he or she is justly entitled should receive the cooperation of the Examiner to that end, and not be prematurely cut off in the prosecution of his or her case... The Examiner should never

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lose sight of the fact that in every case the Applicant is entitled to a full and fair hearing, and that a clear issue between Applicant and Examiner should be developed, if possible, before appeal ... (emphasis added)

In making the final rejection, all outstanding grounds of rejection of record should be carefully reviewed, and any such grounds relied on in the final rejection should be reiterated. They must also be clearly developed to such an extent that Applicant may readily judge the advisability of an appeal unless a single previous Office Action contains a complete statement supporting the rejection... (emphasis added)

37 C.F.R. §1.113 Final rejection or action.

(b) In making such final rejection, the Examiner shall repeat or state all grounds of rejection then considered applicable to the claims in the case, clearly stating the reasons therefor. (emphasis added)

Basis for Request to Withdraw Final Rejection

The rejections of Applicants' claims, made final, fail to meet the statutory and regulatory standards governing patent examination since the entirety of Applicants' claims were not considered. The current Office Action is therefore incomplete and finality has been imposed prematurely. In particular, Examiner Dye did not address each of Applicants' claims. As an example, the Examiner did not address, **at least**, claims 8-15 and 20.

The final rejection therefore impermissibly ignores a majority of the Applicants' pending claims.

A final rejection that fails to comply with all relevant rules and regulations impose an undue burden on the Applicants. Non-compliant rejections that are made final unfairly restrict the Applicants' ability to respond because the issues of

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patentability are not adequately developed in accordance with the standards expressed in the MPEP, 37 C.F.R and 35 U.S.C. Applicants presented with a non-compliant final rejection are unable to judge the advisability of an appeal because the Office Action does not contain a complete statement supporting the rejection. A non-compliant final rejection also prematurely cuts off the prosecution without giving the Applicants a full and fair hearing.

For all the foregoing reasons, Applicants respectfully request consideration of the following amendment, remarks and ALL pending claims in the present application. Should the Examiner find Applicants' response insufficient to overcome the rejection, it is requested that the Examiner issue a detailed, non-final Office Action clearly stating the reasons for the rejection of each claim in view of the prior art.

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REMARKS

This Amendment is being filed under 37 C.F.R. §1.116 governing Amendment After Final Rejection. This Amendment is appropriate for entry under Rule 116, since it does not raise new issues and places the application in allowable condition and/or places the application in better condition for appeal.

Reconsideration of the various objections and rejections set forth in the Office Action January 15, 2003 is respectfully requested in view of the foregoing Amendment and following Remarks. Claim 1 has been amended. Withdrawn claims 24-42 have been cancelled. Drawing 2-1-A and 6-C have been amended. Upon entry of the amendment, claims 1-23 are presented for reconsideration by the Examiner.

Amendment to the Drawings

The drawings have been objected to under 37 CFR §1.83(a), wherein it has been asserted that the drawings do not show every feature of the invention specified in the claims. In particular, the Examiner has stated that features of Claim 1 have not been shown in the drawings.

Applicants herein enclose amended Figures 2-1-A and 6-C. The amendments to Figures 2-1-A and 6-C add no new matter and merely arrange the material previously present in the drawings in a clarifying manner and are consistent with respect to the Examiner's comments. In particular, Figures 2-1-A and 6-C clearly depict aspects of the present claimed invention including the feature of representing each element of the set of discrete intra-market elements by a first geometric figure, which is overlaid with the geometric figure onto a bar.

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Claim Rejections Under 35 U.S.C. §102

Claims 1-23 have been rejected under 35 U.S.C. §102(e) as being anticipated by United States Patent No. 6,272,474 to Garcia, wherein it is asserted that Garcia teaches each of the claimed limitations. Applicants respectfully note the proper standard under 35 U.S.C. §102 for finding anticipation is that the prior art must disclose each and every limitation found in the claims, either expressly or inherently. Rockwell International Corp. v. United States, 147 F.3d 1358, 1363 (Fed. Cir. 1998); Electro Med System S.A. v. Cooper Life Sciences, 34 F.3d 1048, 1052 (Fed. Cir. 1994). Furthermore, the omission of any claimed element no matter how insubstantial is grounds for traversing a rejection based on Section 102. Connell v. Sears Roebuck & Co., 772 F.2d 1542 (Fed. Cir. 1983). A rejection under 35 U.S.C. §102 is improper since Garcia does not, at a minimum, disclose representing on a computer display device each element of said set of intra-market elements by a first geometric figure onto said bar.

Applicants respectfully direct the Examiner's attention to the Garcia reference. In particular, Garcia only displays bid/ask trade bars for a stock or each of the selected number of stocks in which the percentage of sales at bid prices and the percentage of sales at ask prices are depicted. Garcia simply does not display trade information at every price, including, intra-market information such as the highest trading activities (the modal point). As such, a proper rejection under 35 U.S.C. cannot be made.

Claims 2-23 Are Not Anticipated

The Examiner's assertion of anticipation by Garcia is improper since all of the claimed elements are not disclosed by Garcia. Applicants respectfully direct the Examiner's attention to the following illustrative listing of claims and elements not shown in Garcia:

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claim 8, graphically representing on a computer display device a price interval with the highest trading activities by a dot ; claim 9, said second geometric figure is a vertical line with a predefined width and color connecting the high and low of said price range; claim 10, graphically representing on a computer display device said continuous price range with substantially low trading activities on said bar by a third geometric figure; claim 11, said third geometric figure is a vertical line with predetermined width and color connecting the high and low price of said price range; claim 12, graphically representing on a computer display device at least one continuous price range with substantially high trading activities by a fourth geometric figure and overlaying said fourth geometric figure onto said bar, said fourth geometric figure being a rectangle with a predetermined width and length, said rectangle has vertices with Y-coordinates; claim 13, said rectangle is hollow if a close price is higher than an open price indicated by said bar, and is filled if the close price is lower than the open price of said bar; claim 14, said price-time chart is a Japanese Candlestick Chart and said rectangle has an identical width with a body of said bar, said rectangle contains a pattern to distinguish it from the body of said bar; claim 15, said pattern is a slanted stripe pattern; and claim 20, graphically representing on a computer display device each intra-market element of said set of intra-market elements by a fifth geometric figure and overlaying said fifth geometric figure onto the bar. As such a proper rejection of these claims have not been made.

Claims 1-23 Are Non-Obvious Under a Proper 35 U.S.C. §103 Analysis

The claimed invention is additionally non-obvious with regard to Garcia since there is at the minimum no suggestion or motivation present in the teaching or disclosure of Garcia, or within the knowledge of one of ordinary skill in the art as evidenced by, at least, the references cited in the Office Action, to do what the

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Applicants have done in the claimed invention. For example, at a minimum Garcia does not teach or suggest representing on a computer display device each element of said set of intra-market elements by a first geometric figure onto said bar. Applicants note that as thoroughly discussed in a recent court holding:

“...the essential factual evidence on the issue of obviousness is set forth in Graham v. John Deere Co., 383 U.S. 1, 17-18, 148 USPQ 459, 467 (1966) and extensive ensuing precedent. The patent examination process centers on prior art and the analysis thereof. When patentability turns on the question of obviousness, the search for and analysis of the prior art includes evidence relevant to the finding of whether there is a teaching, motivation, or suggestion to select and combine the references relied on as evidence of obviousness. See, e.g., McGinley v. Franklin Sports, Inc., 262 F.3d 1339, 1351-52, 60 USPQ2d 1001, 1008 (Fed. Cir. 2001) (“the central question is whether there is reason to combine [the] references,” a question of fact drawing on the Graham factors).” In re Lee, 61 USPQ2d, 1430 (Fed. Cir. 2002)

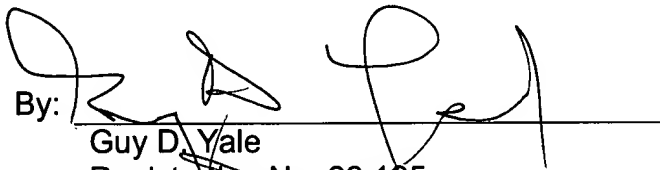
Such a rigorous examination required by law clearly would find the claimed invention non-obvious based on at least a study of the problem to be solved by the Applicants, and the functionality of the claimed invention.

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In summary, Applicants have addressed each of the objections and rejections within the present Office Action. It is believed the application now stands in condition for allowance and prompt favorable action thereon is earnestly solicited.

Respectfully Submitted,

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